

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

CA #: 03 CV 12463 RGS

GREAT NORTHERN INSURANCE CO.
as subrogee of PHYLLIS MACNEIL,
1000 Pillsbury Center
Minneapolis, MN 55402
Plaintiff

v.

INTERCITY ALARMS, INC.

20 North Main Street
Yarmouth, MA 02664
Defendant/Third Party Plaintiff,

v.

JOHN VOSE,
Third Party Defendant

TRIAL MEMORANDUM

The defendant Intercity Alarms prepares this Trial Memorandum for the court on the issues of the Third Party Complaint. The defendant/third party plaintiff has brought a Third Party Complaint for contribution pursuant to M.G.L. c. 231B against John Vose seeking a determination that Mr. Vose, the third party defendant is a joint tortfeasor and that he should contribute to any finding against the third party plaintiff. Intercity Alarms, Inc. believes that the evidence will show that the fire was directly caused as a result of the negligence of Mr. Vose and, therefore, he is a joint tortfeasor. Thus, pursuant to the Massachusetts Contribution Statute, M.G.L. c. 231B, Vose is required to contribute as a joint tortfeasor, 50% or any judgment or finding entered by the jury against the defendant/third party plaintiff Intercity Alarms, Inc. In the event that a finding enters in favor of the plaintiff against the defendant/third party plaintiff

Intercity Alarms, Inc. John Vose is liable to the defendant/third party plaintiff in whole or in part for the amount of any finding or judgment for damages that enters against Intercity Alarms, Inc. in contribution as a joint tortfeasor.

The evidence clearly shows that Mr. Vose or someone under his direction and control, was the one that put a wet varnished cabinet drawer on the stove and turned on clearly Mr. Vose is a joint tortfeasor and should be required to contribute.

The defendant Intercity Alarms, Inc. proposes that the evidence be entered as to all claims including the Third Party Complaint in the trial in chief. Intercity Alarms, Inc. proposes that the jury be asked in its special questions whether it finds Mr. Vose negligent. If the answer is yes, then the court should enter a judgment for contribution against Mr. Vose.

The Defendant,
INTERCITY ALARMS, INC.
by its attorney,

/s/ Bradford N. Louison
Bradford N. Louison (BBO# 305755)
MERRICK, LOUISON & COSTELLO,
LLP
67 Batterymarch Street
Boston, MA 02110
(617) 439-0305

CERTIFICATE OF SERVICE

I, Bradford N. Louison, hereby certify that on the 22nd day of September, 2005, I served the foregoing by causing a copy to be mailed, postage prepaid, directed to Roy P. Giarrusso, Giarrusso, Norton, Cooley & McGlone, P.C., Marina Bay, 308 Victory Rd., Quincy, MA 02171; A. Richard Bailey, Cozen O'Connor, Attorneys, 1900 Market St., Philadelphia, PA 19103-3508.

/s/ Bradford N. Louison
Bradford N. Louison